

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Developing a Unified Intercarrier
Compensation Regime

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CC Docket No. 01-92

**REPLY COMMENTS OF
TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.**

Pursuant to the Commission's Public Notice, DA 02-1740, released July 18, 2002, Texas Statewide Telephone Cooperative, Inc. (TSTCI)¹, respectfully submits these Reply Comments² regarding Sprint's Petition.³ From the many comments received and the divergent interpretations of current Commission rules and orders, Sprint's Petition has far reaching impacts for the small incumbent local exchange companies (ILECs) and is not simply a dispute between Sprint and Bell South. Consequently, TSTCI believes the small ILEC's perspective is important to the Commission's consideration of the Sprint Petition.

TSTCI generally does not participate with formal comments on most interconnection issues of this nature; however, the Commission's ruling on the Sprint Petition will establish regulatory policy that clearly impacts the small ILEC members of TSTCI. In fact, the Commission's ruling, as explained more fully below, will likely influence current regulatory policy and industry practice in Texas. TSTCI submits the primary issue is not necessarily interconnection with the public switched network because Sprint has several interconnection

¹ TSTCI is an association of 35 small LECs that operate in the State of Texas.

² TSTCI filed comments August 8, 2002.

³ Sprint Corporation Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs, filed May 9, 2002 (Sprint Petition).

options available. The issue in this proceeding is one of compensation for use of facilities for *all* carriers that transport and/or terminate a wireless call. Once again, a clarification of previous Commission rulings in the TRS⁴ proceeding and, more recently, the Mountain Communications, Inc. case⁵ is in order.

I. THE COMMISSION SHOULD DENY SPRINT'S PETITION BASED ON PREVIOUS RULINGS AND JURISDICTIONAL APPLICATIONS

The issues outlined in both the TRS and the Mountain cases present the essence of the disputes in this case with one exception: the rating and routing point concept devised by Sprint as a method to avoid direct connections or compensating the third party ILEC involved in processing the traffic. In the TRS case, and more recently codified in the Mountain case, the Commission recognized that not all wireline end users would be able to dial toll-free to all wireless customers within the MTA. The Commission expressed this point in the Mountain case in its discussion of the different wide area calling arrangements. The TRS and Mountain orders recognized that for reciprocal compensation purposes the Commission has the jurisdiction to define the local calling area of the wireless carriers; the Commission is clear, however, that the reciprocal compensation definition for wireless local calling areas does not impact or change the local calling scopes of the ILECs.⁶ Sprint's Petition seems to ignore the Commission's previous orders on this issue.

For many years wireless carriers have requested interconnection at the end offices or tandems within the public switched network that would provide the most economical

⁴ *TRS Wireless, LLC v. U.S. West Communications, Inc.*, 15 FCC Rcd. 11166 (2000), aff'd sub mom. *Quest Corp. v. FCC*, 252 F.3d 462 (D.C. Cir. 2001), (TRS)

⁵ *Mountain Communication, Inc. v. Qwest Communications International, Inc.* File No. EB-00-MD-017, FCC 02-220, Released July 25, 2002.

⁶ Comments of Dobson Communications Corporation in this proceeding at Sec. III, page 11, agrees, "...some traffic between CMRS carriers and LECs will be local, and some will be toll."

interconnection as well as the ability for their wireless customers to call or be called from the largest number of wireline customers. In situations where the wireless carriers have determined a larger local calling area would benefit them competitively, the wireless carriers have approached the wireline carriers and negotiated a reverse billing arrangement or other type of billing arrangement to compensate the wireline carriers for either lost toll revenues or the use of their facilities. Reverse billing arrangements have been a common practice since mid-1990. This industry practice reflects the wireless carriers' recognition that not all end user customers' local calling scopes include MTA-wide calling. Local calling scopes for ILECs have been historically defined and approved by state commissions, but not by attaching a rating point to an ILEC exchange as Sprint is attempting to accomplish. The most unreasonable consequence of this disregard for current industry practices and existing interconnection policies is that a wireless carrier now has the ability to determine the local calling scopes for the small ILECs without the small ILEC's knowledge or without even attempting to negotiate appropriate compensation arrangements.

This Commission does have primary jurisdiction over wireless carriers. TSTCI respectfully points out, however, that even though the state commissions have limited regulatory jurisdiction over wireless carriers, state commissions have primary jurisdiction over the intrastate operations of the ILECs and state interconnection policies. TSTCI believes this Commission recognizes the need to develop broad public policy, as was done in the TRS and Mountain cases, and to allow the state commissions to implement the FCC's rulings given state specific circumstances (e.g., in some states the ILECs are toll providers and could be access providers in other states). The wireless providers are requesting that state interconnection rulings based upon this Commission's previous orders be ignored or overturned, which is not a practical outcome.

In Texas, for example, the industry has established procedures for CLECs and wireless carriers to compensate the small ILECs for indirect interconnection. A template Transport and Termination Agreement⁷ was developed at the direction of the Texas Public Utility Commission (Texas Commission) for use by all wireless carriers and ILECs. The industry template incorporates the roles of the originating carrier, the transiting carrier, and the terminating carrier. With this abbreviated 251(b)(5) transport and termination agreement, the Texas Commission recognized the role a third-party carrier plays in transporting and terminating traffic of other carriers. In addition, the Texas Commission recognized that small ILECs are entitled to negotiate their own agreements with the wireless carriers.⁸

TSTCI recommends that Sprint's Petition be denied and that Sprint be directed to negotiate acceptable network and compensation arrangements based on previous Commission orders. If mutually acceptable agreements cannot be reached, the wireless carriers have the legal remedy to take the issue before the state commission for arbitration. More specifically, TSTCI requests that the Commission clarify that the wireless carriers have the same obligations as the ILECs to negotiate with *all* parties whose networks are used to transport and terminate traffic within the MTA. Furthermore, the actions of Sprint to circumvent compensation responsibilities by attaching NXXs to foreign rate centers as a means of avoiding direct connections and

⁷ The Texas Commission was aware that the small ILECs were not being compensated for use of their facilities and directed the carriers to develop the model template agreement in 1997. The template has been filed at the Texas Commission, and the small Texas ILECs have tried to negotiate agreements with the wireless carriers for terminating traffic, sometimes successfully and sometimes not. Since terminating traffic is not recorded in a manner that allows identification of the originating carrier, at the small ILEC's request, Southwestern Bell Telephone Company of Texas produces a Cellular Transiting Usage Summary Report for the small ILECs to facilitate the compensation process. This report identifies terminating usage of the wireless carriers that transits the SWBT wireless tandems.

⁸ As a general rule, the small ILECs do not forego their negotiation rights to a larger ILEC. In Texas the large ILECs' interconnection agreements with wireless and CLEC carriers contain provisions that indicate the carriers should separately negotiate compensation agreement with all third party ILECs.

unilaterally changing the ILEC's local calling scopes are not in compliance with current FCC orders.

II. INTERCONNECTION AT TECHNICALLY FEASIBLE POINTS ASSUMES APPROPRIATE COMPENSATION HAS BEEN NEGOTIATED BETWEEN THE PARTIES

Sprint and other wireless carriers⁹ filed comments citing the many rulings of the Commission regarding the obligation of the ILECs to allow interconnection at any technically feasible point in the network as justification for Sprint's actions. This reasoning is flawed. Whether or not Section 251(c)(2)(B) applies to the small ILECs represented by TSTCI because of their rural exemption, this provision has never been interpreted to mean interconnection *without compensation*, which is the effect Sprint's Petition would have on the small ILECs. Sprint's designation of a rating center within the local calling scope of an ILEC other than where the direct connection has been established and assuming the small ILEC will reclassify toll calls as local calls and forego either access or toll revenue in exchange for transporting the call at its own expense is an extreme interpretation of the Commission's transport and termination policies. Voice Stream and Western Wireless's position in this proceeding is that Sections 251(a), 251(b)(5) and 251(c)(2)(B) of the Act supports Sprint's actions.¹⁰ To differ with Voice Stream and Western Wireless, TSTCI points to the Commission's First Report and Order in CC Docket Nos. 96-98 and 95-185, at paragraph 1043. In paragraph 1043, the Commission ordered

⁹ Joint Comments filed by Voice Stream and Western Wireless, III.A. and comments filed by Allied National Paging Association, II.2.

¹⁰ Section 251(a) has been defined as a general requirement of all common carriers while Section 251(b)(5) is a basic obligation of the ILECs to work with all connecting carriers to negotiate reciprocal arrangements to transport and terminate each other's traffic. For most of the small ILECs, this is accomplished through indirect connections. Section 251(c)(2)(B) is the obligation for direct connection into the local network of the ILECs. This provision is not enacted until the small ILECs have received a bona fide request for local interconnection. Furthermore, the state commissions have the responsibility to define the local calling scope of the ILECs according to policy developed by this Commission.

that the new reciprocal compensation rules are not to interfere with existing access charge applications for interexchange carriers. If approved, Sprint's Petition would have an impact on the access charge regime.

III. ORIGINATING CARRIERS' OBLIGATION TO TRANSPORT AND TERMINATE WIRELESS TRAFFIC

Voice Stream and Western Wireless' comments at page 7 discuss the originating carrier's obligation to interconnect "indirectly or directly" with each other. TSTCI agrees this is a basic obligation of Section 251(b)(5) of the Act. The wireless carriers' interpretation of this obligation, however, does not take into consideration the additional investments required of a small ILEC if they are required to transport wireless traffic to any wireless designated point of interconnection. Sprint's dispute with the small ILEC in Florida is an example of how the wireless carrier designed its network and relied on the ILEC's obligation to transport and terminate their traffic without consideration of the increased investments or additional costs that is created for the small ILEC. TSTCI fails to see that any of the wireless commenters are willing to acknowledge the additional costs to the small ILECs of implementing their desired network arrangements or to compensate the small ILECs accordingly.

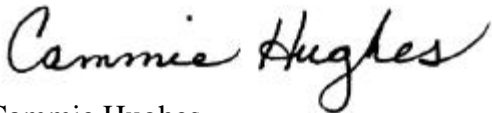
The wireless carriers point out in comments that with Type 2A network connections they are entitled to access all end offices behind a tandem. TSTCI does not necessarily take issue with this type of connecting with small ILEC end offices. TSTCI submits that Type 2A connections may be more economically sound if usage levels are less than a T1 level of traffic. However, the primary issue of the TSTCI member companies with the indirect connection is that the wireless carriers are ignoring their obligation to compensate the small ILECs for transporting and terminating the traffic. TSTCI submits that in some cases, member companies have

presented Section 251(b)(5) transport and termination agreements to the wireless carriers in accordance with Texas Commission policy and have had an unsatisfactory response or no response from the wireless carrier. In other cases, TSTCI member companies have successfully negotiated traffic termination agreements with wireless carriers. This is an ongoing issue in many states as discussed by NTCA in their comments.

In conclusion, TSTCI respectfully requests the Commission to once again clarify current policy decisions made in the TRS and Mountain cases and deny Sprint's Petition. TSTCI contends that the wireless carriers should follow the current Commission orders related to reciprocal compensation for transport and termination of calls and not be allowed to arbitrarily assign an NXX to a rate center in an attempt to avoid direct connections or to avoid paying the appropriate compensation to the small ILEC. Further, TSTCI opposes Sprint's attempt to redefine the local calling areas of the small ILECs and to shift the Section 251(b)(5) transport and termination obligations to the small ILECs.

Respectfully submitted,

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A handwritten signature in cursive script that reads "Cammie Hughes". The signature is written in black ink and is positioned above the printed name and title.

Cammie Hughes
Member Services Director